

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 Estate of VALERIE YOUNG, by VIOLA YOUNG,
5 as Administratrix of the Estate of
Valerie Young, and in her personal
6 capacity, SIDNEY YOUNG, and LORETTA
YOUNG LEE,

Plaintiffs,

7 vs.

Index No.:
07CV6241

8 STATE OF NEW YORK OFFICE OF MENTAL
9 RETARDATION AND DEVELOPMENTAL
DISABILITIES, PETER USCHAKOW,
10 personally and in his official
capacity, JAN WILLIAMSON, personally
11 and in her official capacity, SURESH
12 ARYA, personally and in his official
capacity, KATHLEEN FERDINAND,
13 personally and in her official
capacity, GLORIA HAYES, personally and
14 in her official capacity, DR. MILOS,
personally and in his official capacity,

Defendants.

15 -----X
16 April 11, 2008
17 10:06 a.m.

18 Examination before trial of PETER
19 ALEXANDER USCHAKOW, held at the offices
20 of The Catafago Law Firm, P.C., 350 Fifth
21 Avenue, New York, New York, pursuant to
22 Notice, before Wendy D. Boskind, a
23 Registered Professional Reporter and
24 Notary Public of the State of New York.
25

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ALSO PRESENT:

PATRICIA PAWLOWSKI, ESQ.

Counsel's Office

Office of Mental Retardation

and Developmental Disabilities

1 Uschakow

2 A. There are --

3 MR. VELEZ: Objection, it's
4 varying.

5 Q. Well, if you could tell me.

6 If it's too voluminous to
7 state on the record, then let me know
8 that, also, because then my next question
9 is going to be how did you ensure
10 compliance. Did you have a manual? Is
11 there some other way? Right now the
12 question on the table, and we can go
13 back, is, what are those requirements
14 that you had to ensure compliance with.

15 A. There are a certain number of
16 conditions of participation in the
17 Medicaid program. Those conditions of
18 participations are further delineated
19 into standards.

20 Yes, I have the condition --
21 I'm sorry -- the 483 regs. in my office.

22 Q. So 483 regs.

23 A. I think it is.

24 Q. You had it physically in your
25 office?

1 Uschakow

2 A. Physically in my office.

3 Q. And that's what you would
4 refer to, to ensure compliance?

5 A. That's what I would refer to
6 if I needed to enlighten myself in
7 greater detail what the definition of
8 "compliance". To ensure compliance, I
9 delegated to my experts on my staff.

10 Q. And, ultimately, you had the
11 ultimate directorial supervision over
12 those experts; right?

13 A. Not all of them.

14 Q. Which didn't you directly --
15 which weren't you directly in charge of?

16 A. I was not in charge of the
17 discipline coordinators.

18 Q. Well, the discipline
19 coordinators reported to the deputy
20 director of operations --

21 A. That's correct.

22 Q. -- who reported to you.

23 A. That's correct.

24 Q. And, by "discipline
25 coordinators", you're referring to field

1 Uschakow
2 of disciplines, like doctors, and so
3 forth.

4 A. I am specifically talking
5 about physical therapy, occupational
6 therapy, nursing, speech pathology,
7 recreation, day treatment programming.

8 Q. To your knowledge, did
9 Valerie Young ever receive physical
10 therapy while under the care of BDC?

11 A. Yes.

12 Q. When?

13 A. I don't understand, "when"?

14 Q. I'm asking for a temporal
15 time reference to your response.

16 You said "yes", she received
17 care, and my question is when did she
18 receive --

19 A. When did she receive the
20 care?

21 Q. Yes.

22 A. I don't recall the exact
23 dates.

24 Q. Do you recall the year or
25 years?

1 Uschakow

2 Q. Do you recall having a
3 discussion about the treatment and care
4 of Valerie Young with anyone at BDC prior
5 to her death?

6 A. I do recall relaying to the
7 deputy director concerns about reduced
8 ambulation on the part of Valerie Young
9 after a phone call by Mrs. Viola Young.

10 Q. And when you said you recall
11 a discussion with the deputy director of
12 operations, are you referring to Arya or
13 Jan Williamson?

14 A. I am not sure which one it
15 was.

16 Q. Can you describe, in greater
17 detail, the substance of your
18 conversation with the deputy director at
19 that time?

20 A. That Viola Young -- Mrs.
21 Viola Young, had called me to air her
22 concern about Valerie's reduced walking
23 ability, and I shared exactly that with
24 the deputy for follow-up with the
25 treatment team.

1 Uschakow

2 Q. And did anyone report back to
3 you, after you shared that with your
4 deputy director?

5 A. I do not recall.

6 Q. Do you recall you following
7 up with anyone to determine what had
8 happened after you had spoken to the
9 deputy director?

10 A. I do recall, after the phone
11 conversation, seeing Valerie in Building
12 5 being assisted to walk.

13 Q. That wasn't my question. We
14 will get to that in a second.

15 My question is, did you
16 follow up with anyone.

17 A. No.

18 MR. VELEZ: Counsel, that can
19 be construed as "follow-up",
20 because --

21 MR. CATAFAGO: Okay, so let's
22 go there.

23 Q. When you saw her in Building
24 5, was it happenstance viewing or were
25 you specifically going to see whether or

1 Uschakow

2 not anything had been done following your
3 discussion with the deputy director?

4 A. I periodically make rounds of
5 all of the program areas, and happened to
6 see Valerie.

7 Q. And you saw her being
8 assisted with someone?

9 A. Yes.

10 Q. Do you know who was assisting
11 her?

12 A. No.

13 Q. Was it one person or more
14 than one?

15 A. I remember one person.

16 Q. Was she using a wheelchair at
17 the time?

18 A. No.

19 Q. Was the wheelchair beside her
20 at the time?

21 A. I don't recall seeing it.

22 Q. Did you ever see Valerie
23 Young in a wheelchair at all?

24 A. Yes.

25 Q. How many times?

1 Uschakow

2 A. I couldn't tell you.

3 Q. Did you see her -- withdrawn.

4 You made -- you would make

5 rounds periodically or was it regular

6 that you would make rounds?

7 A. I don't understand the

8 question.

9 Q. Well, when you were director

10 at BDC, how often would you walk around

11 to look at the patients?

12 A. It varies, it varies on the

13 pressures of the office.

14 Q. Approximately how many times,

15 if you can approximate, did you actually

16 see Valerie Young?

17 MR. VELEZ: During what time?

18 MR. CATAFAGO: The time that

19 she was there.

20 Q. Once a week?

21 A. As a direct-- since my

22 arrival there?

23 Q. Well, since your arrival

24 there, since you were deputy director.

25 A. No way I could count.